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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,853	05/10/2006	Hermann Bruggendick	2831089.00043	5048
21878 7590 08/03/2010 K&I. Gates LLP 214 N. TRYON STREET HEARST TOWER, 47TH FLOOR CHARLOTTE, NC 28202				
EXAMINER				
MILLER, SAMANTHA A				
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
08/03/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/578,853

**Applicant(s)**

BRUGGENDICK, HERMANN

**Examiner**

SAMANTHA A. MILLER

**Art Unit**

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/22)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 6/5/06

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election with traverse of election of species in the reply filed on 4/26/2010 is acknowledged. The arguments are found persuasive. The requirement is withdrawn.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20-38 are rejected under 35 U.S.C. 102(b) as being anticipated by SMITH (2,812,254).

SMITH teaches:

20. Extending a downwardly open flue duct (106) into a vat (vat or tank formed by 40, 41, 42, and 43) so as, with the aid of a liquid (oil) that has collected in the vat, to form a liquid barrier that is adapted to close off a flue gas end of said flue duct relative to the environment; relieving the upstream exhaust gas cleaning system from the draft effect of the flue duct by lowering the level of the liquid in the vat below an edge of the flue duct to expose at least a portion of a cross-section of the flue duct (Fig.2).

21. The lowering of the level of the liquid in the vat is effected by lowering the vat together with the liquid (by lowering weirs, col.5 ll.1-41).

22. Using a trough as the vat, wherein the trough is associated with a lower edge of said flue draft, and wherein the trough outwardly delimits a discharge plate (90).

23. The liquid is adapted to flow over an outer wall of the trough in the manner of a weir (col.5 ll.1-41).

24. A plurality of overflow weirs are associated with various peripheral regions of said trough, and wherein the liquid in the trough is adapted to overflow outwardly via said overflow weirs and to drain the trough (col.5 ll.1-41).

25. Adjusting a depth of immersion of said flue duct into the trough by vertically positioning the trough (col.5 ll.1-41).

26. Includes re-establishing a chimney draft in the exhaust gas cleaning system by vertically delivering the trough and the discharge plate to the lower end of the flue duct to such an extent that the flue duct extends into the liquid of the trough to a predescribed depth (col.5 ll.1-41).

27. Includes adjusting the depth of immersion by varying the vertical feed of the trough (col.5 ll.1-41).

28. Includes applying this method with an open exhaust gas cleaning system (col.5 ll.1-41).

Regarding claims 29-35 and 37; refer to the rejection of claims 20-28.

36. A plurality of overflow weirs having a uniform height are distributed over a periphery of said trough (Fig.2) (col.5 ll.1-41).

38. Openings for chimney draft air are provided in said flue duct, and wherein said openings are adapted to the closed off via air supply shutters or louvers and/or by sliding doors (66).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samantha A. Miller whose telephone number is 571-272-9967. The examiner can normally be reached on Monday - Thursday 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Samantha Miller

Examiner

Art Unit 3749

7/17/2010

/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749